

19 DEC  
1978

OGC 78-8405

12-20-78

OLC #78-2611/2

MEMORANDUM FOR: Director of Central Intelligence

VIA: Deputy Director of Central Intelligence  
Deputy Director for Operations  
Chief, International Activities Division

FROM: [REDACTED]  
Chief, IAD/Covert Action Staff

SUBJECT: Response to 18 August Letter from  
Senators Bayh and Goldwater

1. Action Requested: It is requested that you sign the attached identical letters to Senators Bayh and Goldwater.

2. Background: Your endorsement of the revised text of the letter to Representative Boland et al regarding Covert Action review and approval procedures (Ref A) has provided guidance for the redrafting of the response to the Bayh/Goldwater letter (Ref B) on the same subject. This response combines portions of the text of the originally proposed reply (but without any critical passages regarding Congressional hindrances on Covert Action) and the key paragraphs of the letter to Representative Boland.

3. You will recall that the Bayh/Goldwater letter was sent to Dr. Brzezinski and Secretary Vance as well as to yourself. Dr. Brzezinski replied briefly and noncommittally. It was our intention to let State send the first substantive reply, with ours to follow and conform thereto. However, State's lawyers are still wrestling with their draft, and we believe we should delay no longer in sending our response. If you approve this text, we will send State a copy, as well as a copy of the letter to Representative Boland.

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Attachment:  
A/S

## ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:

C/IAD/CAS

EXTENSION

NO.

DATE

TO: (Officer designation, room number, and building)

DATE

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1.

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MEMORANDUM FOR: Director of Central Intelligence

VIA: Deputy Director of Central Intelligence  
Deputy Director for Operations  
Chief, International Activities Division

25X1 FROM: [REDACTED]  
Chief, IAD/Covert Action Staff

SUBJECT: Response to 18 August Letter from  
Senators Bayh and Goldwater

CONCUR:

25X1 [REDACTED] 20 DEC 1978

*A* Deputy Director for Operations

Date

25X1 DDO/DC/IAD/CAS [REDACTED] 3D00 18 Dec 78

Distribution:

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Washington, D.C. 20505

Honorable Birch Bayh, Chairman  
Select Committee on Intelligence  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

I much appreciate your thoughtful letter of August 18 regarding the 7 June 1978 Presidential Finding on Covert Action. I agree with your perception that the procedures we are developing for oversight of covert action will lead to a system "characterized by rational decision and proper policy control." I do not believe we could have achieved this progress without the diligence and goodwill of your Committee and its staff.

I share your concern that sensitive activities be approved at appropriate levels of the Executive Branch, so that those who have to bear the consequences of a possible "flap" are permitted to evaluate possible risks in advance. On the other hand, I think some of your proposals tend toward escalating the evaluation of routine covert action activities to an unnecessarily high level. Generally speaking, we consider

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to be low-risk activities. Therefore, our procedures for validating such activities do not involve elaborate external review.

I believe that one of the principal reasons we have had a degree of difficulty in reaching a full, common understanding on such matters is the complicated nature of covert action review and approval procedures. These procedures have accumulated over the last few years in response to widespread concern that CIA's covert action programs were not subject to sufficient scrutiny both within the Executive Branch and by Congress. I am confident that the system we have now is fully adequate to ensure proper control and review. At the same time, I believe there is one small, but very significant, change that we can make which will help to clarify the situation. Henceforth, we will categorize findings as either "specific" or "general."

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Looking at the Presidential Finding [ ] items  
A, B, C, D and E and the paragraphs under F which pertain to

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considered "specific"; other subheadings would be considered  
"general." The purpose of making this distinction is to  
clarify what procedures ensue to check on the proper imple-  
mentation of a finding once approved by the President.

a. In the case of specific findings, what is  
to be accomplished, and where and when, is clear  
in the language used by the President; further  
instruction or clearance within the Executive  
Branch should not be required. Clearly, responding  
under the Hughes-Ryan Amendment to the appropriate  
committees of Congress is required. Overall,  
this procedure involves the President's making  
a specific determination, the CIA's reporting  
to the Congress and carrying out the Presidential  
Finding.

b. In the case of general findings what is to  
be accomplished is specified, but exactly where,  
when and how is usually left for later determination.  
The objective is to anticipate requirements for  
covert action so as to be quickly responsive in  
changing circumstances. Usually these findings  
involve the Covert Action infrastructure or  
existing liaison relationships. They are generally  
low risk activities from an operational standpoint.

What we do in the case of each general finding is to obtain  
clearance from the State Department and upon occasion from other  
concerned departments of the Executive Branch prior to translating  
the general finding into specific action. In signing a general  
finding, the President is giving broad policy and conceptual  
authorization to a covert action program. At the same time,  
he entrusts the Department of State with ensuring that the  
detailed execution of the program remains in conformity with  
U.S. foreign policy. In addition, he delegates to CIA the  
responsibility for assessing and appropriately limiting the  
operational risk of activities to be undertaken, and to the  
State Department the responsibility for assessing such policy  
factors as the consequences of exposure of the program.

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Your letter questions the use of general findings on a "contingency basis, leaving operational considerations to the future." [REDACTED]

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President without formal consideration of risks and adverse consequences. I am not certain what you mean by the word formal, but certainly the SCC and the President do consider risks and adverse consequences of projects they approve. The broad political and national security risks can be judged without reference to specific operational details.

With respect to Congressional involvement in this process, your Committee and the appropriate additional committees are notified of both general and specific findings in a timely manner. As far as the general findings are concerned, we also make available to you "Perspectives." These papers, which are developed by CIA and coordinated in by the Department of State, provide tactical guidance to our field stations to implement the general findings.

Also, as you point out, we have the Memorandum of Notification procedure for operations carried out under general findings which we may feel involve more than ordinary operational risk or political sensitivity. You express some concern that CIA itself should be the judge of what activities ought to require this additional outside review. It seems to me that this is a perfectly proper role for the Director of Central Intelligence. The nomination and confirmation process is designed specifically to determine whether the Director of Central Intelligence and his Deputy are equipped to make judgments on what ought to be called to the attention of higher executive authority and to the appropriate Congressional committees. Such trust in the capability and integrity of responsible executive officials is essential if the mechanisms of government are to function efficiently, responsively and responsibly.

In addition, as you are aware, I have tightened Agency review procedures for covert action. Propaganda activities are reviewed by staff components as well as by the area division responsible for running them. A thorough discussion takes place regarding the risks and potential gains. In my judgment this review procedure, coupled with SCC approval and implementation pursuant to State Department Perspectives, provides an adequate system of checks and balances.

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You express a specific concern that paragraph F.a. of the Finding may confer Presidential approval on a wide variety of activities unrelated to international terrorism or narcotics control. This is not our interpretation, and, as the Deputy Director for Operations advised Senator Huddleston at your Committee's hearing [REDACTED] it was never our intention to use the language of this Finding to provide assistance for purposes other than counterterrorism or counternarcotics.

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With regard to your comment on the recruitment efforts that can take place under the covert action infrastructure finding, let me assure you that this process is reviewed by responsible Agency officials. In addition to the station chief's judgment, recruitment activities are also reviewed by senior officials at the Headquarters level who call them to my attention when significant risks are involved. I consider it my responsibility to consult with my superiors and colleagues if the risks are great enough to warrant their attention.

I appreciate the constructive nature of your comments and fully support your efforts to help produce a system characterized by a rational decision and proper policy control of sensitive activities.

All portions of this document are SECRET.

Yours sincerely,

STANSFIELD TURNER

cc Honorable Birch Bayh

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